

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 21 June 2019

**Public Authority:** Welland and Deepings Internal Drainage Board  
**Address:** Deeping House  
Welland Terrace  
Spalding  
PE11 2TD

#### **Decision (including any steps ordered)**

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1. The complainant has requested the Welland and Deepings Internal Drainage Board (the board) to disclose details of any cost savings it has implemented since April 2013. The board was concerned the complainant was using a pseudonym and refused to comply with the request until the complainant provided a postal address.
2. The Commissioner's decision is that the request was a valid request which met the requirements of section 8 of the FOIA. The board should therefore have responded to it within 20 working days.
3. The board has since responded so no further action is required. The Commissioner has however recorded a breach of section 10 of the FOIA in this case.

#### **Request and response**

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4. On 14 November 2018, the complainant wrote to the board and requested information in the following terms:

"Please will you provide details of any specific cost saving changes Welland and Deepings IDB has implemented since April 2013

Please described the nature of these cost saving changes and the amount of the resulting reduction in the Board's annual expenditure"

5. The board acknowledged receipt of the receipt on 15 November 2018 and asked the complainant to provide her full name and address.
6. The complainant responded the same day and referred the board to the Commissioner's guidance. She stated that the legal requirement for making a request requires the requester to give their real name and an address to which the authority can reply. She informed the board that the address can either be a postal address or an email address. The complainant provided her full name and advised the board that she had chosen to give an email address to which it can reply.
7. The board responded the same day and advised the complainant that it had requested further information from her because it had concerns that she was using a pseudonym. It asked the complainant to provide her postal address and stated that once it had clarified this it would then process her request.
8. The complainant wrote to the board later that day and requested it to reconsider its refusal to process her request unless she provides a postal address. She asked the board to provide evidence to support its suspicions that she had used a pseudonym. The complainant stressed again that she is not using a pseudonym and provided her full name to the board for a second time.
9. The board responded, again on 18 November 2018, and said that its decision is final.

### **Scope of the case**

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10. The complainant contacted the Commissioner on 16 December 2018 to complain about the way her request for information had been handled. The complainant confirmed that she is unhappy with the way in which the board has handled her request. She stated that she is not using a pseudonym, has provided her full name and an address to which the board can reply. She does not consider there is any requirement to provide a postal address to the board and believes it has acted inappropriately by refusing to process her request until she provides it. The complainant believes her request was a valid request under the FOIA, met the requirements of section 8 and therefore her request should have been proceed in accordance with the FOIA within 20 working days of receipt.
11. During the Commissioner's investigation the board decided to comply with the request and issue a fresh response advising the complainant that the information is not held.

12. The complainant has requested a decision notice to record the Commissioner's decision in respect of section 8 of the FOIA and any procedural breaches.

### Reasons for decision

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13. Section 8(1) of the FOIA states a "request for information" is a reference to such a request which –
  - (a) is in writing,
  - (b) states the name of the applicant and an address for correspondence, and
  - (c) describes the information requested.

Section 8(2) states that a requested is to be treated as made in writing where the text of the request –

- (a) is transmitted by electronic means,
  - (b) is received in legible form, and
  - (c) is capable of being used for subsequent reference.
14. The Commissioner asked the board to explain in more detail why it considered the request was not valid. It stated that it was aware that a number of other internal drainage boards had received similar FOIA requests over the past couple of years. It commented that it was aware that the name and email address varied slightly between boards although the information requested often remained the same. The board confirmed that it suspected the requester was a commercial organisation and not a member of the public.
15. On receipt of this request it read the Commissioner's guidance and thought based on this that it was reasonable to verify the complainant's name and request a postal address. It argued that such information would enable the board to check the electoral register and verify the identity of the complainant.
16. The board stated that it is a small local authority which had genuine concerns that the complainant was using a pseudonym and it considered the complainant's failure to provide her postal address strengthened its view.
17. The Commissioner wrote back to the authority and specifically referred it to her guidance, which can be accessed here:

<https://ico.org.uk/media/for-organisations/documents/1164/recognising-a-request-made-under-the-foia.pdf>

18. The Commissioner referred the board in particular to paragraph 7, which states that determining whether a request is valid or not under section 8 of the FOIA is not a hard test to satisfy. It states that the vast majority of written requests will be valid. Paragraph 14 says that the requester can be a commercial company, organisation or an individual and the remainder of the guidance says that it is clearly the Commissioner's position that unless it is *obvious* and can be supported by some form of evidence, a public authority should accept a requester's name at face value. The Commissioner also referred the board to paragraph 25 which discusses the variations in names that may occur and provides a good example of how someone can slightly alter how they present their name but it still be the same person and be valid for FOIA purposes.
19. The Commissioner suggested that the complainant may or may not be connected to a commercial organisation. But this do not suggest that the request is invalid. As the guidance says a request can be made by an individual, commercial company or organisation. FOIA requests are also applicant blind and the Commissioner reminded the board of this. She also reminded the board that the requester's identity or motives for wanting the information are not relevant considerations unless the board is considering section 12 or 14 of the FOIA.
20. Additionally the Commissioner argued that there can be valid reasons or explanations as to why a requester uses slightly different variations in name or other email addresses. Similarly there can be other explanations for the number of requests to other drainage boards – a requester conducting their own research for example.
21. The Commissioner informed the board that she did not consider the complainant was using a pseudonym and did not consider the request was not a valid one which did not meet the requirements of section 8. She therefore asked the board to reconsider its position or provide further evidence.
22. The board issued a further response to the complainant, informing her that the requested information is not held. It therefore decided on reflection to accept the request as a valid request for information and to process it in accordance with the FOIA.
23. The complainant has confirmed that she has no complaint with the revised response issued. The Commissioner is therefore satisfied that no further action is required.

24. She has however go on to consider whether the board has breached the requirements of the FOIA in this case.

**Procedural matters**

25. Section 10 of the FOIA requires public authorities to respond to requests promptly and in any event no later than 20 working days from receipt.
26. As the board incorrectly refused to comply with the request under section 8 (on the basis that it did not consider it to be a valid request because it had suspicions the complaint was using a pseudonym), the board failed to respond to the request within the statutory time for compliance. She therefore finds the board in breach of section 10 of the FOIA.

## **Right of appeal**

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27. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

28. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
29. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

## **Signed**

**Samantha Coward**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**